

## CONSULTING AGREEMENT

This Consulting Agreement (hereinafter "Agreement") is effective as of the 23 day of April, 2015 ("Effective Date")

by and between

Edwards Lifesciences SA, having its principal place of business at Route de l'Etraz 70, 1260 Nyon, Switzerland (hereinafter "Edwards")

and

Doctor [REDACTED] residing at AMC Hospital, Meibergdreef 9 in 1105 AZ Amsterdam, The Netherlands (hereinafter "Consultant").

Edwards and Consultant (sometimes referred to herein as "the Parties," or "either" or "other Party" respectively) hereby agree and declare as follows:

1. Scope of Work

The services performed by Consultant for Edwards pursuant to this Agreement shall be deemed to be within the general field of Hemodynamic Monitoring ("Field"). The consulting services ("Services") shall mean those services to be performed by Consultant for Edwards as outlined in Exhibit A attached hereto.

2. Compensation and Invoicing

Edwards shall pay Consultant for the Consulting Services actually requested by and provided to Edwards, a daily rate of €1,500 (one-thousand and five hundred Euros) per each full day. The consulting fees do not include value added tax (and any other applicable tax).

Edwards and Consultant agree that the Consulting Services will be performed at the location determined by Edwards, which could be away from the metropolitan area of Consultant's regular place of business. It is understood and agreed that travel time is not compensated. Only actual travel expense will be compensated.

Consultant shall maintain contemporaneous records of the hours spent providing the Consulting Services, the preparation time for the Consulting Services, and the amount of reasonable out-of-pocket expenses that are compliant with Edwards' travel and expense policy, and incurred in providing the Consulting Services pursuant to this Agreement. Every thirty (30) days during the rendition of Consulting Services, Consultant shall submit an invoice that includes a detailed written report of all Consulting Services provided under this Agreement. An invoice template to be used for this purpose is attached hereto as Exhibit C. Each invoice must be submitted within 30 days of the end of the quarter in which the Consulting Services were provided, and shall list each individual Consulting Service for which Consultant is seeking compensation, the date each Consulting Service was provided, the length of time spent preparing for (where applicable) and providing each Consulting Service, and any travel and/or out-of-pocket expenses incurred by Consultant for each Consulting Service (where applicable).



Included with such invoice, Consultant shall provide to Edwards on a form provided by, or acceptable to, Edwards, a written and certified verification, made under penalty of perjury, of the date and place of performance of each Consulting Service, the length of each Consulting Service, attendees or participants, and a summary of each Consulting Service provided. Such invoice, including the certification, must be received by Edwards before payment for the Consulting Services is made. Edwards shall only reimburse Consultant for any itemized, documented, reasonable, out-of-pocket expenses that are compliant with Edwards' travel and expense reimbursement limits, attached hereto as Exhibit B, and reflected on the invoice. Consultant shall not request, and Edwards will not pay for, expenses not compliant with Edwards' travel and expense limits attached hereto as Exhibit B. All such out-of-pocket expenses shall be billed to Edwards at net cost. No markups will be permitted on pass-through or out-of-pocket expenses. All discounts received by the Consultant will be passed on to Edwards. All original receipts and other supporting documentation shall be attached to the invoices and all documentation sent to Edwards ATTN: [REDACTED] Strat. & Mktg CC, Edwards Lifesciences, Route de l'Etraz 70, 1260 Nyon, Switzerland. Edwards and Consultant acknowledge and agree that the compensation to be paid by Edwards to Consultant hereunder represents the fair market value compensation for the Consulting Services rendered, has not been determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between Edwards and Consultant, and shall not obligate Consultant to purchase, use, recommend or arrange for the use of Edwards' products or those of any organization affiliated with Edwards. There shall be no adjustment to the compensation paid Consultant pursuant to this Agreement based on the presence or absence of any such recommendation or referral by Consultant. Nothing in this Agreement shall be construed in any manner as an obligation or inducement for Consultant to recommend that any person or entity purchase Edwards' products or the products of any organization affiliated with Edwards. Both parties agree that all payments or reimbursements for or connected with Consulting Services provided by Consultant, including payments or reimbursements for expenses connected to Services provided by Consultant, shall be made solely by Edwards, and that under no circumstances shall such payments or reimbursements be provided to Consultant by Edwards' distributors, sales representatives, or agents. All payments and/or reimbursements made by Edwards hereunder connected with the Consulting Services provided by Consultant will only be made into a bank account denominated in Consultant's name (and/or the AMC Hospital for payment for services performed by Consultant during weekdays, as evidenced on Exhibit C hereto) and located in Consultant's country of permanent residence. Consultant will be solely responsible for any tax liabilities associated with payments made under this Agreement.

### 3. Manner of Performance

Consultant represents that he has the requisite expertise, ability and legal right to render the Consulting Services and that he will perform the Consulting Services in an efficient manner and in accordance with the terms of this Agreement. Consultant will abide by all laws, rules and regulations that apply to the performance of the Consulting Services and when on Edwards' premises, will comply with Edwards' policies with respect to conduct of visitors.

Consultant is an independent contractor, and shall not be considered an employee of Edwards. Edwards will not be responsible for Consultant's acts while performing the Consulting Services, whether on



Edwards' premises or elsewhere, and Consultant will not have the authority to speak for, represent, or obligate Edwards in any way whatsoever.

4. Confidentiality

It is anticipated that Consultant will learn Edward's confidential and/or proprietary information during discussions leading up to this Agreement, and during the course of the Consulting Services performed pursuant to this Agreement. Consultant will keep confidential, and not use, except in connection with the Consulting Services to be provided hereunder, information which is provided to Consultant by Edwards and/or developed by Consultant while performing the Consulting Services, including but not limited to, information concerning Edwards' products, manufacturing processes, customers, product pricing, and technical know-how, unless and until Edwards consents to such disclosure, or unless such information otherwise was previously known by Consultant, as documented by Consultant in writing, or becomes generally available to the public through no fault of Consultant. The obligations of non-use and confidentiality of such information shall survive the termination of this Agreement.

Consultant further represents that any and all information disclosed to Edwards, or used for the benefit of Edwards by Consultant does not include any confidential information, proprietary information or trade secret which belongs to others.

Consultant will not disclose to others, without Edwards' consent, the fact that he is providing Consulting Services to Edwards. Upon termination of this Agreement, Consultant will return to Edwards by registered post all copies of drawings, specifications, manuals and other printed or reproduced materials (including information stored on machine readable media) provided to Consultant by Edwards or developed by Consultant during the performance of the Consulting Services under this Agreement.

5. Conflicts of Interest

Consultant represents that he has advised Edwards in writing prior to the date of signing this Agreement of any relationship with third parties, including competitors of Edwards, which would present a conflict of interest with the Consulting Services, or which would prevent Consultant from carrying out the terms of this Agreement. Consultant agrees to advise Edwards of any such relationships that arise during the term of this Agreement.

Edwards will have the option of terminating this Agreement without further liability to Consultant, upon learning of the occurrence of any of the events set out in this Agreement, with the exception of payment due for any Consulting Services actually rendered under this Agreement. Consultant shall have no recourse against Edwards if termination occurs for reasons contemplated by this Article.

6. Non-Compete Clause

Consultant agrees during the term of this Agreement, and for one (1) year after its termination date, not to perform any services within the field of the Agreement or which may utilize any information obtained from Edwards or any information developed during the course of performing the Consulting Services for



Edwards for any other entity, and in particular for any other entity engaged in the development, manufacture, distribution or sales of medical care products or services.

7. Insurance and Indemnification

Consultant agrees to indemnify and hold Edwards harmless for any injury occurring to any property or person as a result of Consultant's performance of the Consulting Services under this Agreement, provided that the said injury does not occur because of gross negligence on the part of Edwards.

Consultant shall indemnify Edwards from and against claims, proceedings, damages, costs and expenses which may be brought or made against Edwards or for which Edwards may become responsible by reason of Consultant's infringing or being held to have infringed any intellectual property rights in relation to articles, processes and inventions or if Consultant is held to have infringed copyright in any way whatsoever.

8. Ownership of Deliverables and Developments

All copyright protectable materials developed by Consultant in the course of performing the activities described in this Agreement (the "Protectable Materials") shall be deemed as works made for hire and shall be the property of Edwards. Consultant hereby assigns and shall assign the Protectable Materials to Edwards and agree to sign and deliver to and shall sign deliver to Edwards any documents required to complete such assignment. Consultant agrees to the recording by Edwards of his sessions or presentations and further agrees that Edwards may use such recordings in a legal and ethical manner as it deems appropriate, including making it available as online content on educational websites. In this respect Consultant will have the right to be mentioned as the author of such material while Edwards will be the sole owner of all educational material produced by Consultant pursuant to this agreement. Should applicable law preclude Edwards ownership of the Protectable Materials, Consultant hereby grants and shall grant to Edwards a worldwide, unlimited, perpetual, royalty-free paid-up license to use, reproduce and distribute the Protectable Materials, and agree to sign and deliver to and shall sign and deliver to Edwards any documents required to complete such license.

All materials, documents, data, software and information supplied to Consultant by Edwards shall be and remain the sole and exclusive property of Edwards ("Edwards Property"). Except as otherwise contemplated by this Agreement, all such Edwards Property, and copies thereof, shall be promptly returned upon Edwards's request, or destroyed.

Consultant agrees and does hereby assign to Edwards any and all of Consultant's interest in any inventions or discoveries (which includes all written materials and other works which may be subject to copyright) and all patentable and unpatentable inventions, discoveries, and ideas (including but not limited to any computer software) which are reduced to practice, conceived, or written by Consultant during the term of this Agreement and for ninety (90) days after it expires, and which are based upon any information received from Edwards and/or developed as a result of performing the Services for Edwards (hereinafter "Development"). Consultant agrees to hold all such Developments confidential in accordance with Section 4 of this Agreement. Consultant shall disclose promptly to Edwards such Development and, upon Edwards' request and at Edwards' expense, Consultant will assist Edwards, or anyone it designates, in filing and prosecuting patent or copyright applications in any country in the



world. Each copyrightable work, to the extent permitted by law, will be considered a work made for hire and the authorship and copyright of the work shall be in Edwards' name.

Consultant will execute all papers and do all things which may be necessary or advisable, in the opinion of Edwards, to prepare, file, and prosecute such applications and to evidence the assignment in Edwards, or its designee, of all right, title, and interest in and to such Development. Edwards agrees to compensate Consultant for any time Consultant actually spends in response to a specific request for assistance by Edwards under this Section. If for any reason Consultant's interest in such Development is subordinate to another party, or if Consultant's interest in such Development has been released to another party pursuant to a contract or governmental regulation, Consultant agrees to notify Edwards and take whatever steps Edwards deems necessary to convert or transfer such third party's interest in such Development to Consultant for subsequent transfer to Edwards under the terms of this Agreement. Furthermore, if for any reason Edwards is unable to obtain Consultant's execution of any paper necessary to prepare, file and/or prosecute such applications, Consultant hereby appoints Edwards as Consultant's attorney-in-fact exclusively for the purpose of executing any such papers as may be reasonably necessary to prepare, file, and/or prosecute such applications.

Notwithstanding the foregoing, Developments expressly excludes Consultant's Pre-Existing Materials, and Consultant retains all right, title and interest in and to any and all Pre-Existing Materials. For the purposes of this Agreement, "Pre-Existing Materials" means, in any form or media, any software, tools, algorithms, know-how, ideas, techniques, materials, architecture, methodologies, concepts, trade secrets and other proprietary information, that were owned by Consultant prior to entering into this Agreement. To the extent any Pre-Existing Materials are used in connection with the Services and/or incorporated or contained in any deliverable provided to Edwards pursuant to this Agreement, Consultant hereby grants Edwards a non-exclusive, irrevocable, perpetual, royalty-free, worldwide license to use the Pre-Existing Materials in accordance with this Agreement.

This Section shall survive the termination of this Agreement.

#### 9. Disclosures to Edwards

If during the term of this Agreement, Consultant discloses any copyrightable works, inventions, discoveries, or any other patentable or non-patentable ideas to Edwards which were conceived or written outside of the terms of this Agreement, and which are not based upon any information received from Edwards and/or developed as a result of performing the Consulting Services under this Agreement, Edwards will have no liability to Consultant because of its use of such works, inventions, discoveries or ideas. If, however, Consultant discloses in writing his ownership of, and intention to register or patent, those copyrightable works, inventions, discoveries or ideas to Edwards' legal department, then Edwards shall not be free to use any such valid copyright or patent now or hereafter issued thereon to the extent such valid copyright or patent covers Edwards' activities.

#### 10. Term and Termination

This Agreement will commence on the Effective Date and shall continue for a period of twelve (12) months until 22<sup>nd</sup> of April 2016. The Agreement shall automatically terminate upon expiration. The

Parties agree that this Agreement may be extended only by mutual written agreement. Edwards shall have the right to terminate this Agreement at any time upon giving thirty (30) days' written notice to Consultant.

In the event that either Party breaches this Agreement, the other Party will have the right to terminate this Agreement if such breach remains uncured ten (10) days after written notice with details of the breach has been delivered to the other Party. In the event of the actual or threatened breach of any of the terms of Sections 4, 5, 6 and 8 herein, Edwards will have the right to specific performance and Injunctive relief.

Consultant agrees that he shall have no recourse against Edwards, beyond that provided for in Section 2 of this Agreement, for Edwards' earlier termination of this Agreement. Edwards' only obligation upon such early termination is to compensate Consultant for any time actually spent by Consultant in providing the Consulting Service under this Agreement and for properly reimbursable travel expenses.

The Parties understand and agree that once notice of termination has been given, by either party, Consultant shall not perform any further work, even if previously agreed upon, without Edwards' prior written consent.

**11. No Influence**

The parties understand and agree that neither Consultant's provision of the Consulting Services nor its receipt of consideration under this Agreement, shall require, induce, or in any way influence Consultant or any of its Affiliates to promote, recommend or require the use of, any Edwards product reviewed or involved in the provision of the Consulting Services, or any product manufactured, produced or distributed by Edwards.

Consultant declares that he has not been convicted of any violation of any law involving fraud, bribery or corruption and that he will comply with all national, EU and/or US-applicable laws, rules and regulations including those dealing with anti-fraud, anti-bribery, and anti-corruption, including, but not limited to the US Foreign Corrupt Practices Act and the UK Bribery Act.

Consultant warrants that his compensation under this Agreement is for "bona fide" services rendered to Edwards, and that no portion of such compensation will be passed, directly or indirectly, to any third party in any way that could be construed as violating local laws. Consultant further warrants that he will not make any payments to or for the benefit of any government official, health care professional or customer for the purpose of obtaining business or any concession, or for another improper purpose, and he will strictly abide by any applicable national, EU or US laws, including but not limited to, the US Foreign Corrupt Practices Act or the UK Bribery Act. Consultant further agrees to comply with the ethical standards adopted by the European Confederation of Medical Suppliers Associations (Eucomed), in the Eucomed Code of Ethical Business Practice, which Consultant acknowledges he has reviewed.

**12. Disclosure to Employer**



By signing this Agreement, Consultant also confirms that Consultant's administrative body/employer has been informed about Consultant's intention to enter into this Agreement and that Consultant's administrative body/employer has agreed to same in writing.

**13. Notice**

Edwards is a member of Eucomed and as such, shall maintain appropriate transparency by requiring that prior written notification is made to the hospital administration, an HCP's superior or other locally designated competent authority, disclosing the purpose and scope of the consulting arrangement.

**14. Miscellaneous**

No assignment by Consultant of this Agreement, or any sums due under it, will be binding on Edwards without Edwards' prior written consent.

This Agreement supersedes all prior agreements and understandings between the Parties respecting the subject matter of this Agreement. This Agreement may not be changed or terminated orally by or on behalf of either Party.

This Agreement shall be construed according to the laws of Switzerland. The Parties consent to the exclusive jurisdiction of the courts of Lausanne for all litigation, which may be brought with respect to the terms of, and the transactions and relationships contemplated by, this Agreement.

If any of the provisions of this Agreement are void or unenforceable, the remaining provisions shall nevertheless be effective, the intention being to carry out this Agreement to the fullest extent possible.

For Edwards Lifesciences SA:



04-05-2015

Date

For Consultant:



\_\_\_\_\_  
Doctor

03-05-2015

Date

## **EXHIBIT A**

The Consulting Services shall mean those services to be performed by the Consultant for Edwards as outlined below:

- a) Act as a medical expert and provide advice to Edwards within the critical care strategy definition. To advise Edwards on clinical aspects of its work related to the development and support of its products, particularly when the use of such products is for critically ill patients or during anesthesia.
- b) Collaborate with the R&D team in the development of new physiological monitoring methods and devices. Undertake development research projects and clinical trials as agreed by the parties. Prepare data for publication as appropriate.
- c) Prepare and deliver presentations and speeches at either Edwards' internal meetings or national and international conferences and seminars regarding topics in the Field at Edwards' specific request.
- d) Prepare educational and marketing material in close collaboration with Edwards. Review educational and marketing documents which have been produced by Edwards for clinical accuracy in critically ill patients or in patients undergoing surgery.
- e) Concerning the Enhanced Surgical Recovery Working Group the daily rate for your participation will be 1'000EUR (one-thousand Euros).



**EXHIBIT B**

**Travel and Meal Limits**

**Non-French HCPs (other than Belgians)**

Airfare	Train	Hotel Maximum	Meal Maximums (inclusive of tax and tip)
Economy class ticket unless one consecutive leg of flight exceeds 6 hours	First Class ticket	EUR 250/night inclusive of tax	Breakfast – EUR 35
			Lunch – EUR 80
			Dinner – EUR 100

**Belgian HCPs**

Airfare	Train	Hotel Maximum	Meal Maximums (exclusive of tax and tip)
Economy class ticket unless one consecutive leg of flight exceeds 6 hours	First Class ticket	EUR 250/night inclusive of tax	Lunch – EUR 40
			Dinner – EUR 80

**French HCPs**

Airfare	Train	Hotel Maximum	Meal Maximums (inclusive of tax and tip)
Economy class ticket	First Class	EUR 250/night inclusive of	Lunch – EUR 60

unless one consecutive leg of flight exceeds 6 hours	ticket	tax and breakfast	
		EUR 300/night inclusive of tax, dinner the night of check-in and breakfast the next morning	Dinner – EUR 60

**EXHIBIT C - HCP CONSULTANT INVOICE TEMPLATE**

<b>HCP CONSULTANT/PROCTOR INVOICE</b>
(This invoice must be submitted within 30 days following the end of the quarter in which the service was provided or expense was incurred)

To: Edwards Lifesciences SA, rte de l'Etraz 70, 120 Nyon Switzerland

Attn:

From: (name and address of Consultant/Proctor must match information in contract)

Invoice #: \_\_\_\_\_

Invoice Date: \_\_\_\_\_

Date Service Performed	Activity Type*	Service / Activity** please do not combine services or services and travel	Description of Service(s)	Duration of Service or Activity rounded to the nearest hour	Rate (hourly rate, daily rate, etc.)	Amount in EUR





		Total Fee for Service			
Date of Expense	Activity Type*	Expenses	Nature of Expense (e.g., hotel, airfare, meal, and whether breakfast, lunch or dinner)	Amount in EUR (requires receipts)	
		Total Expenses to be Reimbursed			

	Total Invoice Amount				
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The undersigned Consultant/Proctor hereby affirms that the services listed above have been performed for Edwards, that the expenses listed, if any, were incurred by Consultant/Proctor in connection with the performance of the services, and that detailed, itemized receipts for the expenses are attached

Name of Bank Account holder: [REDACTED]

Bank Name/Address: [REDACTED]

IBAN Nr.: [REDACTED]

SWIFT Code: [REDACTED]

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

\* "ACTIVITY TYPES"

CSR: Clinical and Scientific Research

TRN: HCP Training and Education

SM: Sales & Marketing

\*\* "SERVICE/ACTIVITY"

HCP-Honorarium (use only for Advisory Board)

HCP-Faculty/Speaker

HCP-Faculty/Speaker-Proctoring

HCP-Non-Educational Speaking

Train travel - domestic - route

Air travel - International - route (e.g. GVA-ORD-GVA)

Ground transportation (taxi)

**HCP-Consulting**

**Preparation (creation of  
material)**

**Preparation (review of existing  
material)**

**Patient screening (proctor)**

**Cancelled case (proctor)**

**Air travel – domestic – route  
(e.g. DFW-LAX-IAD)**

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